

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:
Pineda, Flor Dejesus

Case No.04-32360

Chapter 13

Debtor(s).

**NOTICE OF HEARING AND
MOTION FOR RELIEF FROM STAY**

To:

FLOR DEJESUS PINEDA
458 ENGLISH ST
ST PAUL, MN 55106
SSN: XXX-XX-7714

* Debtor *

CURTIS K WALKER
4356 NICOLET AVE S
MINNEAPOLIS, MN 55409
612-824-4357

* Attorney *

U.S. Bank National Association ND, a secured creditor of Debtor(s), by its undersigned attorney, moves the Court for the relief requested below, and gives notice of hearing herewith.

1. The Court will hold a hearing on this motion at 10:30 p.m. on September 1, 2004, before Honorable DENNIS D. O'BRIEN in Courtroom No. 228A, 200 United States Courthouse, 316 N. Robert Street St. Paul, Minnesota 55101, or as soon thereafter as counsel can be heard.

2. Any objection to the relief requested herein must be filed and delivered not later than August 27, 2004, which is three (3) days before the time set for the hearing (excluding Saturdays, Sundays and holidays), as filed and served by mail not later than August 23, 2004, which is seven (7) days before the time set for the hearing, (excluding Saturdays, Sundays and holidays). UNLESS A WRITTEN REPOSENSE IS TIMELY FILED, THE COURT MAY GRANT THE MORTION WITHOUT A HEARING.

3. This motion is filed pursuant to Bankruptcy Rule 4001 and U.S. Bank National Association ND seeks relief from the automatic stay U.S.C. § 362 with respect to certain real property owned by Debtor(s).

4. The petition commencing this Chapter13 case was filed on April 19, 2004, and the case is now pending in this Court. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 1334 and 157(a), 11 U.S.C. §362(d) and applicable rules. This is a core proceeding.

5. By mortgage dated April 12, 2004 in the original principal amount of \$29,800, U.S. Bank National Association ND holds a mortgagee's interest in the following real property (the "Property"):

Lot 11, Dietz's Subdivision of Lot 10 of Lee's Suburban Homes, Ramsey County, Minnesota. Torrens Cert 523211. This property lies in the county of Ramsey, State of Illinois.

Address: 1616 5th Street East, Saint Paul, MN 55106

The Mortgage filed in the offices of such County. A copy of the Mortgage is attached hereto as Exhibit A.

6. Presently, there is a delinquency under the terms of the note secured by the Mortgage with respect to monthly payments due for the months of June 2004 through July 2004 in a total amount exceeding \$741.29, including late charges, plus attorney's fees and costs. The outstanding balance due U.S. Bank National Association ND under the terms of the note is \$ 28,892.92, plus interest, late fees and attorney's fees.

7. U.S. Bank National Association ND does not have adequate protection of its interest in the Property, which constitutes cause, within the meaning of 11 U.S.C. § 362(d) (1), entitling U.S. Bank National Association ND to relief from the automatic stay. In addition, U.S. Bank National Association ND request that the stay imposed by Rule 4001 (a) (3) of the Federal Rules of Bankruptcy Procedure be held not applicable so that U.S. Bank National Association ND may immediately enforce and implement this Order granting relief from the automatic stay.

8. If testimony is necessary as to any facts relevant to this motion Kenneth Johnson will testify on behalf of Client.

9. THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

WHEREFORE, U.S. Bank National Association ND respectfully moves the Court for an order modifying the automatic stay of 11 U.S.C. § 362 and for such other relief as may be just equitable.

Dated: 8/12/04

JOHNSON, BLUMBERG & ASSOCIATES, LLC

By: 

Kenneth J. Johnson #0246074
Attorneys for Movant
39 S. LaSalle Street, Suite 400
Chicago, IL 60603
Phone (312)541-9713

VERIFICATION

I, Sandra Howdyshell, Bankruptcy Specialist of U.S. Bank National Association ND, the movant named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: August 12, 2004

Signed:


Sandra Howdyshell, Bankruptcy Specialist
U.S. Bank National Association ND

528167 ①

Registrar of Titles, Ramsey, MN
Date Filed: 10/2/2002 8:00 AM
As Doc #: 1707374
On CT # ('s):
528167,

RAMSEY COUNTY

Receipt No 6245 Date: 10/2/2002
Registration tax hereon of \$68.54 Paid
MN Conservation Fund M.S. 473H \$5.00 Paid
Dorothy A. McClung, Auditor by Addition

MORTGAGE

THIS MORTGAGE is made this 12th day of April, 2002
between the Mortgagor, FLOR DEJESUS PINEDA, A SINGLE PERSON

Return to: 1959
Pioneer Title Insurance
268 S Commerce Circle N.E.
Fridley, Mn. 55432

(herein "Borrower"), and the Mortgagee,

U.S. BANK NATIONAL ASSOCIATION ND

existing under the laws of THE UNITED STATES OF AMERICA
4325 - 17TH AVENUE SW, FARGO, ND 58103

, a corporation organized and
, whose address is

(herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of U.S. \$ 29,800.00, which indebtedness is evidenced by Borrower's note dated April 12, 2002 and extensions and renewals thereof (herein "Note"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on April 20, 2017;

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby

MINNESOTA - SECOND MORTGAGE - 1/80 - FNMA/FHLMC UNIFORM INSTRUMENT

VMP -76(MN) (800) 03

Form 3224

Page 1 of 1

VMP MORTGAGE FORMS - (800) 521-7291

OCT 2 2002 8 - AM

1959

grant and convey to Lender, with power of sale, the following described property located in the County of
RAMSEY, State of Minnesota:
SEE "ATTACHMENT A"

Balloon Rider Attached.

which has the address of 1616 5TH ST E SAINT PAUL
[Street] [City]
Minnesota 55106 (herein "Property Address"):
[ZIP Code]

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property."

Borrower covenants that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property, and that the Property is unencumbered, except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note and late charges as provided in the Note.

2. **Funds for Taxes and Insurance.** Subject to applicable law or a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments of principal and interest are payable under the Note, until the Note is paid in full, a sum (herein "Funds") equal to one-twelfth of the yearly taxes and assessments (including condominium and planned unit development assessments, if any) which may attain priority over this Mortgage and ground rents on the Property, if any, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Borrower shall not be obligated to make such payments of Funds to Lender to the extent that Borrower makes such payments to the holder of a prior mortgage or deed of trust if such holder is an institutional lender.

If Borrower pays Funds to Lender, the Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for so holding and applying the Funds, analyzing said account or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as Lender may require.

Borrower: PINEDA
Loan Number: 00000510056121



ATTACHMENT "A"
Property Description

**LOT 11, DIETZ'S SUBDIVISION OF LOT 10 OF LEE'S SUBURBAN
HOMES, RAMSEY COUNTY, MINNESOTA.**

TORRENS CERT 523211

**THIS PROPERTY LIES IN THE COUNTY OF RAMSEY, STATE OF
MINNESOTA.**

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 17 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraph 2 hereof, then to interest payable on the Note, and then to the principal of the Note.

4. Prior Mortgages and Deeds of Trust; Charges; Liens. Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any.

5. Hazard Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and such other hazards as Lender may require and in such amounts and for such periods as Lender may require.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender, provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

6. Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments. Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

7. Protection of Lender's Security. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 7 shall require Lender to incur any expense or take any action hereunder.

8. Inspection. Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

9. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

10. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

11. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 16 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Note, (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Property to Lender under the terms of this Mortgage, (b) is not personally liable on the Note or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Note without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

12. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

13. Governing Law; Severability. The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of federal law to this Mortgage. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Note are declared to be severable. As used herein, "costs," "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

14. Borrower's Copy. Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.

15. Rehabilitation Loan Agreement. Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

16. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Mortgage.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

17. Acceleration; Remedies. Except as provided in paragraph 16 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums

secured by this Mortgage, Lender prior to acceleration shall give notice to Borrower as provided in paragraph 12 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 30 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may invoke the power of sale hereby granted and any other remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 17, including, but not limited to, reasonable attorneys' fees.

If Lender invokes the power of sale, Lender shall cause a copy of a notice of sale to be served upon any person, if any, in possession of the Property. Lender shall publish a notice of sale and the Property shall be sold at public auction in the manner prescribed by applicable law. Lender or Lender's designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all sums secured by this Mortgage; (b) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable attorneys' fees and costs of title evidence; and (c) the excess, if any, to the person or persons legally entitled thereto.

18. Borrower's Right to Reinstate. Notwithstanding Lender's acceleration of the sums secured by this Mortgage due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to the earlier to occur of (i) sale of the Property pursuant to the power of sale contained in this Mortgage or (ii) entry of a judgment enforcing this Mortgage if: (a) Borrower pays Lender all sums constituting the default actually existing under this Mortgage and the Note at the commencement of foreclosure proceedings under this Mortgage; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage, and in enforcing Lender's remedies as provided in paragraph 17 hereof, including, but not limited to, reasonable attorneys' fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

19. Assignment of Rents; Appointment of Receiver. As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 17 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 17 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following sale of the Property, Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

20. Release. Upon payment of all sums secured by this Mortgage, Lender shall discharge this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

21. Waiver of Homestead. Borrower hereby waives all right of homestead exemption in the Property.

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

Flor D. Pineda (Seal) _____ (Seal)
FLOR DEJESUS PINEDA -Borrower -Borrower

_____ (Seal) _____ (Seal)
-Borrower -Borrower

_____ (Seal) _____ (Seal)
-Borrower -Borrower

_____ (Seal) _____ (Seal)
-Borrower -Borrower

(Sign Original Only)

STATE OF MINNESOTA,

Anoka

County ss:

On this 12th day of April, 2002, before me appeared

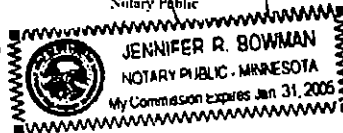
Flor Dejesus Pineda, a single person

personally known to be the person(s) described in and who executed the foregoing instrument and acknowledged that
executed the same as _____, to me
free act and deed.

My Commission Expires:

Jennifer R. Bowman
Notary Public

This instrument was drafted by
U.S. BANK NATIONAL ASSOCIATION ND
90 S. 6TH ST, 4TH FLOOR
MINNEAPOLIS, MN 55402



Tax statements for the real property described in this instrument should be sent to:

FLOR D. PINEDA
1616 5TH ST E
SAINT PAUL, mn 55106

WHEN RECORDED RETURN TO:
U.S. BANK
LIEN PERFECTION DEPT.
P.O. BOX 2687
FARGO, ND 58108-2687

Loan Number:

1707374

BALLOON RIDER
(Full Repayment Required at Maturity)

THIS LOAN IS PAYABLE IN FULL AT MATURITY. YOU MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST THEN DUE. LENDER IS UNDER NO OBLIGATION TO REFINANCE THE LOAN AT THAT TIME. YOU WILL, THEREFORE, BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS THAT YOU MAY OWN, OR YOU WILL HAVE TO FIND A LENDER, WHICH MAY BE THE LENDER YOU HAVE THIS LOAN WITH, WILLING TO LEND YOU THE MONEY. IF YOU REFINANCE THIS LOAN AT MATURITY, YOU MAY HAVE TO PAY SOME OR ALL OF THE CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN EVEN IF YOU OBTAIN REFINANCING FROM THE SAME LENDER.

THIS BALLOON RIDER is made this 12th day of April, 2002
and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed to Secure Debt (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure the Borrower's Note to
U.S. BANK NATIONAL ASSOCIATION ND

(the "Lender") of the same date and covering the property described in the Security Instrument and located at:

1616 5TH ST E
SAINT PAUL, MN 55106

The interest rate stated on the Note is called the "Note Rate". The date of the Note is called the "Note Date". I understand the Lender may transfer the Note, Security Instrument and this Rider. The Lender or anyone who takes the Note, the Security Instrument and this Rider by transfer and who is entitled to receive payments under the Note is called the "Note Holder".

The Note is a Balloon Note which means that the amount of my monthly payment is insufficient to repay the Note in full by Maturity. Therefore, the final payment will be significantly larger than the other payments under the Note.

I understand that the Lender is under no obligation to refinance the Note or to modify the Note or reset the Note Rate or to extend the Note Maturity Date or the Maturity Date of this Security Instrument, and that I will have to repay the Note from my own resources or find a lender willing to lend me the money to repay the Note.

I further understand that should I not repay the Note on or before the Maturity Date, I will be in default, and the Lender will have the right to exercise all of its rights against me because of my default, including the right to foreclosure of the Security Instrument, or other remedies permitted by law.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Balloon Rider.


FLOR DEJESUS PINEDA (Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

(Seal)
Borrower

BALLOON NOTE

(Fixed Rate)

510056121

Pineda

THIS LOAN IS PAYABLE IN FULL AT MATURITY. YOU MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST THEN DUE. LENDER IS UNDER NO OBLIGATION TO REFINANCE THE LOAN AT THAT TIME. YOU WILL, THEREFORE, BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS THAT YOU MAY OWN, OR YOU WILL HAVE TO FIND A LENDER, WHICH MAY BE THE LENDER YOU HAVE THIS LOAN WITH, WILLING TO LEND YOU THE MONEY. IF YOU REFINANCE THIS LOAN AT MATURITY, YOU MAY HAVE TO PAY SOME OR ALL OF THE CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN EVEN IF YOU OBTAIN REFINANCING FROM THE SAME LENDER.

April 12, 2002
[Date]

FRIDLEY
[City]

MN
[State]

1616 5TH ST E, SAINT PAUL, MN, 55106

[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 29,800.00 (this amount is called "Principal"), plus interest, to the order of Lender. Lender is U.S. BANK NATIONAL ASSOCIATION ND

I will make all payments under this Note in the form of cash, check or money order.

I understand that Lender may transfer this Note. Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 11.890 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payments on the 20th day of each month beginning on May 20, 2002

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on April 20, 2017, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 4325 - 17TH AVENUE SW, FARGO, ND 58103

or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 304.81

MULTISTATE BALLOON FIXED RATE NOTE -Single Family - FANNIE MAE UNIFORM INSTRUMENT

Page 1 of 3

VMP-870N (0008).01

VMP MORTGAGE FORMS - (800)521-7291

Form 3280 1/01

Initials: 

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under this Note.

I may make a full Prepayment or partial Prepayments without paying any Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of this Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me that exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charges for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 5 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 15.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses that might result if I do not keep the promises that I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.


FLOR D. PINEDA

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

[Sign Original Only]

Loan Number: 00000510056121

NOTE ADDENDUM (Borrower's Right to Prepay)

THIS NOTE ADDENDUM is made this 12th day of April, 2002 and is incorporated into and shall be deemed to amend and supplement the Note, Fixed Rate Note, Adjustable Rate Note, or Balloon Note made by the undersigned (the "Borrower") in favor of

U.S. BANK NATIONAL ASSOCIATION ND

(the "Lender") and dated as of even date herewith (the "Note"). The interest rate stated on the Note is called the "Note Rate." The date of the Note is called the "Note Date."


I (the Borrower) understand the Lender may transfer the Note, the related Mortgage, Deed of Trust or Deed to Secure Debt (the "Security Instrument") and this Addendum. The Lender or anyone who takes the Note, Security Instrument and this Addendum by transfer and who is entitled to receive payments under the Note is called the "Note Holder".

ADDITIONAL COVENANTS. In addition to the covenants and agreements in the Security Instrument, any Riders to the Security Instrument, or the Note, Borrower and Lender further covenant and agree as follows (despite anything to the contrary contained in the Security Instrument or the Note

BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. If I make a full Prepayment prior to the second anniversary date of this note, I will have to pay a Prepayment charge. The Prepayment charge will be as follows: For a Prepayment of the loan in full between the date of execution of the note and the second anniversary of the execution of the Note, three hundred and fifty dollars (\$350.00). If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to these changes.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Note Addendum.



FLOR D. PINEDA (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:
Pineda, Flor Dejesus

Case No.04-32360

Chapter 13

Debtor(s).

**MEMORANDUM FOR
MOTION FOR RELIEF FROM STAY**

U.S. Bank National Association ND submits this memorandum of law in support of its motion for relief from the stay in the above-entitled matter.

FACTS

U.S. Bank National Association ND holds a valid, duly perfected mortgage on real property owned by Debtor(s). Presently, there is a delinquency under the terms of the note secured by the Mortgage with respect to monthly payments due for the months of June 2004 through July 2004 in a total amount exceeding \$741.29, including late charges, plus attorney's fees and costs. The outstanding balance due U.S. Bank National Association ND under the terms of the note is \$28,892.92 plus interest, late fees and attorneys' fees.

ARGUMENT

Pursuant to Section 362(d)(1) of the Bankruptcy Code, relief from the automatic stay shall be granted upon request of a creditor "for cause, including the lack of adequate protection of an interest in property of such (creditor)." 11 U.S.C. § 362(d)(1). The Bankruptcy Code states that adequate protection may be provided by requiring cash

payments from the trustee to the entity seeking relief, by providing the entity seeking relief a replacement lien, or granting the entity seeking relief the indubitable equivalent of their interest. § 361. Here, Debtor(s) failed to make the payments required by the note and mortgage for the months of May 2004 through July 2004 for post-petition payments. Because the validity of the mortgage has not been challenged, the default by the debtor has not been disputed, and the trustee has not opposed lifting the automatic stay, the default alone entitles U.S. Bank National Association ND to relief from the automatic stay. *See in re Eliker*, 100 B.R. 180, 183 (Bkrtcy.M.D.Pa. 1989). Furthermore, there has been no attempt by Debtor(s) to otherwise provide U.S. Bank National Association ND with adequate protection of its interest in the property. Such circumstances constitute cause, within the meaning of Section 362(d)(1), justifying relief from the stay.

Accordingly, U.S. Bank National Association ND is entitled to an order terminating the stay and authorizing it to foreclose its mortgage on the property. In addition, U.S. Bank National Association ND requests that the stay imposed by Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure be held not applicable so that Client may immediately enforce and implement this Order granting relief from the automatic stay.

Dated: _____

JOHNSON,BLUMBERG & ASSOCIATES, LLC

By: /s/ Kenneth J. Johnson

Kenneth J. Johnson #0246074
Attorneys for Movant
39 S. LaSalle Street, Suite 400
Chicago, IL 60603
Phone (312)541-9713

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:
Pineda, Flor Dejesus

Case No.04-32360

Chapter 13

Debtor(s).

**UNSWORN CERTIFICATE OF
SERVICE**

To:

FLOR DEJESUS PINEDA
458 ENGLISH ST
ST PAUL, MN 55106
SSN: XXX-XX-7714

* Debtor *

CURTIS K WALKER
4356 NICOLET AVE S
MINNEAPOLIS, MN 55409
612-824-4357

* Attorney *

I, KENNETH J. JOHNSON, an attorney, certify that I served this notice by mailing acopy to the above named parties at the addresses listed above by depositing the same in the U.S. mail at 39 S. LaSalle St., Chicago, Illinois at 5:00 p.m., on August 12, 2004.

/s/ Kenneth J. Johnson

Attorney For Movant

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:
Pineda, Flor Dejesus

Case No.04-32360

Chapter 13

Debtor(s).

ORDER MODIFYING AUTOMATIC STAY

This cause coming to be heard on the Motion of U.S. BANK NATIONAL ASSOCIATION ND, through its attorneys, Johnson, Blumberg & Associates, LLC, for relief from the automatic stay, the Court being fully advised:

IT IS HEREBY ORDERED:

- A. That the Automatic Stay of the above case is hereby modified to allow U.S. BANK NATIONAL ASSOCIATION ND to proceed with foreclosure, eviction or any other action to preserve and enforce its rights with regard to the property commonly known as 1616 5th Street East, Saint Paul, MN 55106;
- B. That the 10 day stay provision of Bankruptcy rule of Procedure 4001(a)(3) is waived.

DATE: _____

ENTERED:

Judge Dennis D. O'Brien

Kenneth J. Johnson #0246074
Johnson, Blumberg & Associates, LLC
Attorneys at Law
39 South LaSalle Street, Suite 400
Chicago, Illinois 60603
312-541-9710

